

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF OHIO

WESTERN DIVISION

ESTATE OF ROGER D. :
OWENSBY JR., et al., :
 :
Plaintiffs, : Case No. 01-CV-769
vs. : (Judge S. A. Spiegel)
 :
CITY OF CINCINNATI, : VOLUME II
et al., :
 :
Defendants. :

Continued videotaped deposition of DAVID
WILLIAM HUNTER JR., a witness herein, called by the
plaintiffs for cross-examination, pursuant to the
Federal Rules of Civil Procedure, taken before me,
Wendy Davies Welsh, a Registered Diplomate Reporter
and Notary Public in and for the State of Ohio, at
the offices of Helmer, Martins & Morgan Co. LPA,
1900 Fourth & Walnut Centre, 105 East Fourth Street,
Cincinnati, Ohio, on Thursday, December 4, 2003, at
10:11 a.m.

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1 APPEARANCES:

2 On behalf of the Plaintiffs:

3 Paul B. Martins, Esq.
4 Don Stiens, Esq.
5 Helmer, Martins & Morgan Co. LPA
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8 Cincinnati, Ohio 45202
9 Phone: (513) 421-2400

10 John J. Helbling, Esq.
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14 Phone: (513) 923-9740

15 On behalf of the Defendants City of Golf Manor,
16 Stephen Tilley, Roby Heiland and Chris
17 Campbell:

18 Wilson G. Weisenfelder Jr., Esq.
19 Rendigs, Fry, Kiely & Dennis
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21 One West Fourth Street
22 Cincinnati, Ohio 45202-3688
23 Phone: (513) 381-9200

24 On behalf of the Defendants City of Cincinnati,
Darren Sellers, and Jason Hodge:

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1 APPEARANCES (Continued):

2 On behalf of the Defendants Robert B. Jorg,
3 Patrick Caton, Jason Hodge, Victor Spellman and
4 Darren Sellers:

5 Donald E. Hardin, Esq.
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11 On behalf of David William Hunter Jr.:

12 Jay Clark, Esq.
13 114 East 8th Street
14 Suite 400
15 Cincinnati, Ohio 45202
16 Phone (513) 587-2887

17 Also present:

18 Richard W. Grubb, Videographer

19 Lisa Damstrom, Law Clerk

20 Helmer, Martins & Morgan Co., L.P.A.

21 Roger Owensby Senior

22 Brenda Owensby

23 Shawn Owensby

24

S T I P U L A T I O N S

It is stipulated by and among counsel for the
respective parties that the deposition of DAVID
WILLIAM HUNTER JR., a witness herein, called by the
plaintiffs for cross-examination, pursuant to the

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1 Federal Rules of Civil Procedure, may be taken at

2 this time by the notary; that said deposition may be

3 reduced to writing in stenotype by the notary, whose

4 notes may then be transcribed out of the presence of

5 the witness; and that proof of the official

6 character and qualifications of the notary is

7 expressly waived.

I N D E X

9 Examination by: Page

10 Mr. Martins 111, 277

11 Mr. Hardin. 258

12 - - -

E X H I B I T S

14 Deposition Exhibit 85 Page

15 Deposition Exhibit 86 120

16 Deposition Exhibit 87 131

17 Deposition Exhibit 88 152

18 Deposition Exhibit 89 219

19 Deposition Exhibit 90 221

20 Deposition Exhibit 91 234

21 Deposition Exhibit 92 236

22 Deposition Exhibit 93 238

23 Deposition Exhibit 94 244

24 Deposition Exhibit 95 244

Deposition Exhibit 96 245

21 - - -

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23

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1 DAVID WILLIAM HUNTER JR.

2 being by me previously duly cautioned and sworn,

3 deposes and says as follows:

4 VIDEOGRAPHER: Time is 10:11 a.m. The

5 date is December the 4th. The year is 2003.

6 We're on the record, sir.

7 CONTINUED CROSS-EXAMINATION

8 BY MR. MARTINS:

9 Q. Officer Hunter, we're picking up where we

10 left off after November 6, your first couple hours

11 of your deposition. Remind you that you are still

12 under oath. Okay?

13 A. Yes, sir.

14 Q. All right. Have you talked with anyone

15 about your deposition on November 6th between

16 November 6th and today?

17 A. No, besides my attorney.

18 Q. Okay. Have you discussed the facts of the

19 Owensby case with anyone between November 6th and

20 today?

21 A. No.

22 Q. I want to direct your attention now to

23 November 7, 2000. I understand in the -- sometime

24 on that day you received an MTD message request for

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1 Golf Manor officer near, his car was near. Caton
2 yelled to the Golf Manor officer, "Can we put him in
3 your car?" And the Golf Manor officer said yes.

4 Caton and Jorg took Mr. Owensby over to
5 the car, and I was still standing around picking up,
6 you know, I picked up my Mace, and then checking my
7 belt to make sure I had everything.

8 And they -- as they took him over to the
9 car --

10 Q. Let --

11 A. -- I walked over to the -- okay. Go
12 ahead.

13 Q. Now let -- let me stop you. How did they
14 pick up Mr. Owensby?

15 A. By the arms.

16 Q. Okay. So he's handcuffed and they -- they
17 pick him up. Who is on the right side, who's on the
18 left side, if you know?

19 A. I don't know for sure, but I think Caton,
20 for the most part, he was on the left side. So I'm
21 going to assume that he stayed on the left side when
22 he -- when they picked him up and then Officer Jorg
23 was on the right. They picked him up and then they
24 took him to the car.

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1 Q. Did you see -- could you tell whether or
2 not Mr. Owensby was able to walk to the car?

3 A. Yes, I can tell.

4 Q. And what -- what did you see?

5 A. No.

6 Q. He could not walk?

7 A. No. He -- we -- he --

8 Q. How --

9 A. I don't -- if he could or couldn't, he was
10 not walking. He did not walk to the car.

11 Q. He was being carried?

12 A. Yes.

13 Q. His -- his feet were dangling?

14 A. Dragging.

15 Q. Okay. And the -- Officer Jorg and Caton
16 had Mr. Owensby by the arms?

17 A. Yes.

18 Q. Did anyone else assist in taking Mr.
19 Owensby to the Golf Manor cruiser?

20 A. There might have been another person over
21 there, but like I said, I didn't actually watch them
22 place him all the way in the car. So I don't know
23 if anybody might have got any hands on to help pull
24 him in or get him situated in the back of that car.

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1 Q. All right. What happens next?

2 A. I was still standing -- I -- I was --
3 after they get him over to the car, I walked toward
4 the car. And there was no need for me to be over
5 there, really, so I walked back over, same thing,
6 into the area, just looking down on the ground or
7 whatever, around the area where this just happened.
8 And I looked up and I looked across over
9 toward the Golf Manor police car and I saw the back
10 door open and I saw Officer Caton swinging.

11 Q. Now, what side of the Golf Manor car was
12 Officer Caton on?

13 A. Oh. The -- oh, God. I -- whichever side
14 Mr. Owensby's head was at, because that's the
15 side -- that -- the back door. He was at -- he was
16 standing at the back door where --

17 Because they had Mr. Owensby laying across
18 the back seat. And the side where his head was
19 nearest to the door, that door was open and that's
20 the door -- that's where Officer Caton was standing.

21 Q. Was the other door open?

22 A. No.

23 Q. Do you know if the car was in -- from
24 where you were and where Officer Caton was, was the

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1 car between you two? In other words, were you
2 looking toward Officer Caton's face or were you
3 looking toward his back?

4 A. Hmm. Hmm. Right this minute I can't say
5 for -- for sure, but I do know that from where I was
6 standing, what I saw was the door was open and I can
7 see Caton making swinging motions. But the door was
8 between my vision and Mr. Owensby, so I could not
9 see him making contact, but I can see him swinging.

10 Q. When you say he was swinging, would you
11 either demonstrate or describe for me what you saw.

12 A. Him -- I'll demonstrate.

13 Q. Okay.

14 A. He was leaning in the doorway. He was
15 between the door and the inside of the car. He was
16 leaning in, and I could see him drawing back and
17 coming down, drawing back, coming down, throwing
18 either punches or open hand, I can't say, but he was
19 throwing blows. He was delivering blows. And
20 Mr. -- and the only thing he -- he could eith-- he
21 could have been punching Mr. Owensby or he could
22 have been punching the back seat.

23 Q. And do you know how many blows Officer
24 Caton administered?